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CRL OP(MD)



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 06/01/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.354 of 2023

Xavier Vijesh

... Petitioner/Accused

Vs

The State rep.by
The Inspector of Police,
Thattarmadam Police Station,
Thoothukudi District.
Crime No.279 of 2022.

... Respondent/Complainant

For Petitioner : M/s.K.M.PRISCILLA JANCY,
Advocate.

For Respondent : Mr.T.SENTHIL KUMAR,
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in Crime No.279 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, who was arrested and remanded to judicial custody on 18.12.2022 for the offence punishable under Sections 379 IPC r/w 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.279 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner was found collecting 25 pots of river sand in aluminium container to be taken in a TATA Ace vehicle. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that without prejudice, the petitioner is ready and willing to deposit an amount of Rs.5,000/- (Rupees Five Thousand only) to any welfare scheme. He would further submit that the petitioner is in custody from 18.12.2022, hence, he seeks for bail.

<https://www.mhc.tn.gov.in/judis>



4.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner has illegally transported river sand. Hence, he opposed for grant of bail to the petitioner. However he fairly concedes that no previous case is pending against the petitioner.

5.Heard. Perused the materials available on record including the First Information Report.

6.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.III, Tuticorin, and on further conditions that:

(b) the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the trial Court and produce the receipt before the concerned court at the time of furnishing sureties.

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter, every Saturday at 10.30 a.m., until further orders;

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala** [(2005)AIR SCW 5560];



(i) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

06/01/2023

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

TO

- 1 THE JUDICIAL MAGISTRATE NO.III
TUTICORIN.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
- 3 THE OFFICER INCHARGE,
SUB JAIL, PERURANI.
- 4 THE INSPECTOR OF POLICE,
THATTARMADAM POLICE STATION,
THOOTHUKUDI DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST,
THOOTHUKUDI DISTRICT.

ORDER

IN

CRL OP(MD) No.354 of 2023
Date :06/01/2023

SA/VR/SAR.1/06.01.2023/3P/7C